These views lead to the conclusion that the judgment of the Superior Court should be affirmed.

DAVIES, J., read an opinion for affirming the judgment.

All the Judges were in favor of affirming the judgment of the Superior Court with costs.

Decision accordingly.

LEGAL MISCELLANY.

The authority of counsel in the management, and more especially in the settlement of a cause, has been the subject of much doubt in England since the famous case of *Swinfen* vs. *Swinfen*, 4 L. T. Rep. N. S. 194, and the more general opinion has been, that such authority does not extend to the *settlement* of a case without express authority from the client. The case of *Choun* vs. *Parrott*, however, recently decided by the Court of Common Pleas, (8 Law T. Rep. N. S. 391), has decided in favor of the counsel's power to settle an action, provided he acts reasonably, skilfully, and *bonâ fide*, and unless there is an express command of the client to the contrary. This is in accordance with common sense, and has long been regarded as the settled law in the United States.

The mistakes of foreigners in speaking of our institutions, are always amusing, though not often as harmless as that of Baron BRAMWELL, very recently in *Waller* vs. *S. E. Railway Co.*, 8 L. T. Rep. N. S. 328, where he refers to the late venerable Ch. J. of Massachusetts as *Lord* Chief Justice SHAW. Of course it was a slip of the tongue with the learned Baron, or perhaps the reporter alone is responsible for it, but the language as well as the learning and feeling of the legal profession in England and this country are so much in common, that we almost forget that the former are foreigners to us, until reminded of the fact by some little incident like the above.

In the last number of the London Law Magazine and Law Review, we have an article on the case of the Alabama, in which the

whole subject is treated with a fulness, ability, and candor, as unexpected as it is gratifying. The writer pays a strong tribute to the manner in which Mr. Adams conducted the affair on his part, the invincible grounds upon which he rested his case, and his dignified and manifest good faith in comparison with the trickery and the uncandid and evasive speeches of Earl Russell and the Solicitor-General. The latter, in particular, receives a scorching rebuke for the gross and unworthy inconsistency between his public statements in the House of Commons, and the published correspondence on the subject between Minister Adams and Earl Russell. Truly with the Solicitor-General's misstatements in the Alabama case, and the more recent case of Mr. Roebuck and the Emperor Napoleon, it would seem that veracity in the House of Commons is not of the highest standard. Our readers will pardon us if we give them a very apposite quotation from a speech of Mr. Canning, in the days when British statesmanship was honest and manly at least, which is used with great effect by the writer of the article on which we have been commenting. Said Mr. Canning (Speeches, vol. 5, p. 51, 8 Hansard N. S. 1057), "I do not now pretend to argue in favor of a system of neutrality; but it being declared that we intend to remain neutral, I call upon the House to abide by that declaration, so long as it shall remain unaltered. No matter what ulterior course we may be inclined to adopt; no matter whether, at some ulterior period, the honor and interests of this country may force us into a war; still while we declare ourselves neutral, let us avoid passing the strict line of demarcation. When war comes, if come it must, let us enter into it with all the spirit and energy which become us as a great and independent nation. That period, however, I do not wish to anticipate, much less desire to hasten. If a war must come, let it come in the shape of satisfaction to be demanded for injuries, of rights to be asserted, of interests to be protected, of treaties to be fulfilled. But in God's name let it not come in the paltry, pettifogging way of fitting out ships in our harbors to cruise for gain.

"At all events let the country disdain to be sneaked into a war. Let us abide strictly by our neutrality as long as we mean to ad-

here to it, and by so doing we shall, in the event of any necessity of abandoning that system, be the better able to enter with effect upon any other course which the policy of this country may require."

Few subjects have within the past year or two so much occupied the best minds of the legal profession in England, as the discipline of the Bar. The law-magazines have discussed it in various lights, and recently we have had an elaborate address upon it by Mr. G. Shaw Lefevre before a meeting of the Society for Promoting the Amendment of the Law, to which we are much indebted for the facts mentioned in the remarks we are about to make.

The confidence of the English people and of the Bar itself, in its honorable character and reputation, the growth of centuries of faithful and arduous labor of its members, received a heavy blow when it became known that Mr. Edwin James, one of its leaders, a Queen's Counsel and a member of Parliament, had been disbarred and compelled to retire from the practice of his profession, and ultimately to leave the country. But the shock was still greater when, after a brief interval, Mr. James's case was followed by the trial of Mr. Digby Seymour, likewise a Queen's Counsel, by his Inn, and the various actions that arose out of it, so full of unseemly scandal, not only to Mr. Seymour but to the Society of the Middle Temple. Still more recently we have had the time-honored etiquette of the profession violated by a suit, by another barrister of distinguished abilities and position, against his client for compensation for professional services: *Kennedy* vs. *Broun and Wife*, 11 Am. Law Register 357.

As the case of Mr. Seymour is less known on this side of the Atlantic than the others, a few words about it may not be uninteresting.

The only mode of admission to the Bar in England has been for centuries a call by one of the four Inns of Court. These ancient and exclusive associations, whose aggregate income was stated in 1854 at 57,957 pounds sterling, have almost from time immemorial claimed and exercised the privilege not only of saying in the first place who shall be admitted to the practice of the law

before the superior Courts of the kingdom, but also of continuing a supervision over the professional conduct of their members after admission, and the authority, through their governing councils, called Benchers, to censure, suspend, and even to entirely disbar such of their members as they judge to have disqualified themselves by their character or conduct, for the practice of an honorable profession. From the decision of the Benchers upon the question of admission to the Inn as a student there is no redress, and upon a call to the Bar and subsequently a censure or disbarment, none but an appeal to the judges who by right of ancient custom, or, as is claimed by some writers, by virtue of their inherent powers as Courts of Justice, claim and exert the right of revision over the judgments of the Benchers, upon an appeal by the student or barrister who thinks himself aggrieved.

During the last winter the Benchers of the Middle Temple entered into an examination of charges against the integrity of their fellow-member, Mr. Digby Seymour, which lasted for a considerable time, and was followed by a severe vote of censure upon his professional conduct, which was published, or, as the phrase is, "screened" in the Hall of the Society. There were some circumstances attending the trial that were not unfairly open to just animadversion. In the first place the charges related to events alleged to have taken place six or seven years before the trial, and which were known to many members of his circuit for the whole of that time, and yet no notice was taken of them, until shortly after the elevation of Mr. Seymour to the dignity of Queen's Counsel. Again, the trial was had in an exceedingly informal manner, and it was made an objection by Mr. Seymour that in the fifteen meetings which the trial occupied, the number of Benchers present varied from seven to eighteen, and that only two attended them all. It was very apparent, moreover, that the powers of the Court of Benchers were entirely inadequate to the necessities of such cases. They possessed no authority to compel the attendance of witnesses, or to have compulsory answer under oath to their questions.

For these, as well as for other reasons, this case produced great

excitement in the legal profession, and much discussion upon the exact nature and extent of the authority exercised by the Inns of Court, though the truth of the charges against Mr. Seymour are not formally denied, and there seems to be no dissatisfaction or cause for it, in the profession, with the verdict of the Benchers.

But it was merely another spur to the conviction that had been for a long time forcing itself upon the minds of those who have had the best interests of the profession at heart, that the present organization of the Bar of England is not effectual in supporting the honor and dignity of the profession, and that the discipline of the Inns of Court and their mode of enforcing it, does not provide sufficient guarantees to the public or the Bar itself.

From this same conviction has arisen the movement so resolutely made during the last few years, for the establishment of more secure means of preventing the admission to the Bar of any but properly qualified persons. The Inns of Court require only that the student should have been admitted to his Inn for three years, during which he must have been present at a certain number of dinners in each term, and have attended a certain number of lectures, and even the latter may be dispensed with if he prefer to stand an examination before his call. With this exception there is no qualification in legal or even scholarly attainments, required for admission to the Bar.

The advocates of reform, however, have proposed two restrictions upon this looseness of discipline—the demand of a university education as preliminary to admission to the Inn as a student, or the passage of a public examination before a call to the Bar. The advocates of these two reforms have as usual fallen into almost greater hostility to each other than to the present system, and perhaps with much greater reason. For precisely at this point do two great contending forces meet, the aristocratic conservatism of the ancient bar, and the free, democratic tendencies of the present commercial age; and upon the adoption of one or other of these qualifications will depend very greatly the character of the English Bar for the future.

To the Bar of America this cannot be an uninteresting question

The profession of the law in this country, though from its inherent arduous character, and perhaps even yet somewhat from its traditional conservatism, more difficult of access than business of other kinds, is nevertheless practically free and open to all comers. So far there is perhaps no reason to complain of the results of the experiment, for the tone of the American Bar is still as high and as honorable as that of the English, and whether that were so or not, it would be neither possible nor desirable to give it those exclusive features which have always been its distinctive character in England. Moreover, the examination which is most strenuously advocated there, has in more or less public manner, and with greater or less stringency, long obtained in all the States of the Union; and it is perhaps to this, as much as to anything else, that we owe the learning and character of our Bar.

But it is matter of grave thought whether a more definite organization of the Bar, both State and National, could not be devised, which, without interfering with individual liberty of action, might yet be of service in increasing and perpetuating its reputation and character as an honorable profession. In this view the experience of our brethren in England is worthy of careful observation and discussion. J. T. M.

ABSTRACTS OF RECENT AMERICAN DECISIONS.

SUPREME COURT OF MICHIGAN.[1]

Release of Mortgaged Premises by Holder of first Incumbrance—Notice of subsequent Incumbrance.—Where a mortgagee, with knowledge of a subsequent mortgage on a part of the premises mortgaged to him, releases a part or the whole of the premises not covered by the subsequent mortgage, and the remaining property is not sufficient to pay both, equity will postpone the payment of the first mortgage out of the proceeds of a sale of the remaining property to the extent of the injury done the subsequent mortgagee by the release: *James* vs. *Brown*.

But the rule of notice in such case is different from the rule equity

[1] From Hon. T. M. Cooley, Reporter, to appear in 11 Michigan Reports.